



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:**

Jitao Zou, Ph.D. et al.

**Serial No.:** 09/623,514

**Filed:** March 29, 2001

**For:** DIACYLGLYCEROL  
ACYLTRANSFERASE GENE FROM  
PLANTS

**Confirmation No.:** 8673

**Examiner:** S. Baum, Ph.D.

**Group Art Unit:** 1638

**Attorney Docket No.:** 3015-5684US

**DECLARATION OF DAVID TAYLOR, Ph.D., UNDER 37 C.F.R. § 1.132**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned, Dr. David Taylor, declares and states:

1. I am an inventor or co-inventor of the invention described in one or more of the claims of U.S. Patent Application 09/623,514.

2. I received a B.Sc. in Biochemistry and a Ph.D. in Biology from Carleton University, in Ottawa, Ontario. I actively conduct research in the fields of lipid biochemistry and seed oil biotechnology. During the course of my research, I have been a senior author or co-author on more than 80 publications including journals, book chapters, monographs or

conference proceedings. I am also an Adjunct Professor in the Department of Plant Sciences, University of Saskatchewan.

3. I am informed and believe that an Office Action was mailed on or about July 1, 2004, regarding the above-referenced application. I am informed and believe that claims 1, 3, 6, 10-21, 23 and 34-35 were rejected under 35 U.S.C. § 102(e) as assertedly being un-patentable by Lassner et al., U.S. Patent 6,444,876.

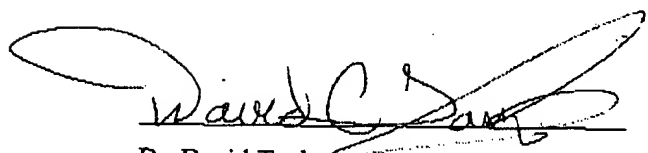
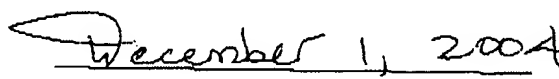
4. I have reviewed U.S. Patent Application 09/623,514 and U.S. Patent 6,444,876.

5. I am informed and believe that claims 11, 13-16, 18 and 23 of U.S. Patent Application 09/623,514 include an element directed to a plant seed having a nucleotide sequence encoding a polypeptide having diacylglycerol acyltransferase activity, wherein the sequence of the polypeptide comprises SEQ ID NO: 2.

6. After reviewing U.S. Patent 6,444,876, it is my opinion that U.S. Patent 6,444,876 does not disclose a plant seed having a nucleotide sequence encoding a polypeptide having diacylglycerol acyltransferase activity, wherein the sequence of the polypeptide comprises SEQ ID NO: 2. For instance, U.S. Patent 6,444,876 does not disclose any working examples of the plant seed having the nucleotide sequence encoding the polypeptide having diacylglycerol acyltransferase activity, wherein the sequence of the polypeptide comprises SEQ ID NO: 2. In fact, U.S. Patent 6,444,876 does not disclose any working examples of any transformed plant seeds. U.S. Patent 6,444,876 discloses a protein from a rat having ACAT-like activity in transformed leaf tissues (*See, U.S. Patent 6,444,876, Examples 7 and 8*).

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7. I hereby declare that all statements are made of my own knowledge, are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both under § 1001 of Title 18 of the United States Code, and that such willful statements may jeopardize the validity of the application or any patent issued therefrom.

  
Dr. David Taylor  
Date